

HOUSE BILL 2876  
By DuBois

AN ACT to amend Tennessee Code Annotated, Title 39,  
Chapter 11, Part 6, relative the use of force for  
purposes of protection and self defense.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-611, is amended by deleting  
the section in its entirety and substituting instead the following:

(a) As used in this section:

(1) "Dwelling" means a building or conveyance of any kind, including any  
attached porch, whether the building or conveyance is temporary or permanent,  
mobile or immobile, which has a roof over it, including a tent, and is designed to  
be occupied by people lodging therein at night.

(2) "Residence" means a dwelling in which a person resides either  
temporarily or permanently, or is visiting as an invited guest.

(3) "Vehicle" means a conveyance of any kind, whether or not motorized,  
which is designed to transport people or property.

(b) A person is presumed to have held a reasonable fear of imminent peril of  
death or serious bodily injury to himself or herself or another when using defensive force  
that is intended or likely to cause death or serious bodily injury to another if:

(1) The person against whom the defensive force was used was in the  
process of unlawfully and forcefully entering, or had unlawfully and forcibly  
entered, a dwelling, residence, or occupied vehicle, or if that person had  
removed or was attempting to remove another against that person's will from the  
dwelling, residence, or occupied vehicle; and

(2) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

(c) The presumption set forth in subsection (b) does not apply if:

(1) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an order of protection, injunction for protection from domestic abuse, or a court order of no contact against that person;

(2) The person or persons sought to be removed is a child or grandchild of, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used;

(3) The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) The person against whom the defensive force is used is a law enforcement officer, as defined in § 39-11-106(21), who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties, and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

(d) A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she

reasonably believes it is necessary to do so to prevent death or serious bodily injury to himself or herself or another or to prevent the commission of a forcible felony.

(e) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

SECTION 2. Tennessee Code Annotated, Section 39-11-612, is amended by deleting the section in its entirety and substituting instead the following:

(a) A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if:

(1) He or she reasonably believes that such force is necessary to prevent imminent death or serious bodily injury to himself or herself or another, or to prevent the imminent commission of a forcible felony; or

(2) Under those circumstances permitted in § 39-11-611.

SECTION 3. Tennessee Code Annotated, Section 39-11-614, is amended by deleting the section in its entirety and substituting instead the following:

(a) A person is justified in the use of force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to prevent or terminate the other's trespass on, or other tortuous or criminal interference with, either real property other than a dwelling, or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household, or of a person whose property he or she has a legal duty to protect. However, the person is justified in the use of deadly force only if he or she

reasonably believes that such force is necessary to prevent the imminent commission of a felony involving violence or a deadly weapon. A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

SECTION 4. Tennessee Code Annotated, Title 39, Chapter 11, Part 6, is amended by adding the following new § 39-11-622:

(a)

(1) A person who uses force as permitted in §§ 39-11-611, 39-11-612 or 39-11-614, is justified in using such force and is immune from criminal prosecution and civil liability for the use of such force, unless the person against whom force was used is a law enforcement officer, as defined in § 39-11-106(21), who was acting in the performance of his or her official duties, and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person was a law enforcement officer.

(2) As used in this subsection, the term “criminal prosecution” includes arresting, detaining in custody, and charging or prosecuting the defendant.

(b) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (a), but the agency may not arrest the person for using force unless it determines that there is probable cause that the force used was unlawful.

(c) The court shall award reasonable attorney’s fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (a).

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.